IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN

NATALIE JOHNSON,

Plaintiff, ORDER

v.

19-cv-760-wmc

C.R. BARD INC. and BARD PERIPHERAL VASCULAR INC.,

Defendants.

Before the court is the parties' request for ruling on objections to certain deposition designations as to Robert Carr.

April 17, 2013, Deposition:

DEPON- ENT	PL AFFIRM	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
		Bard objects to Plaintiff's references to "Admitted in the Peterson case" as a basis for allowing a designation to played, or overruling an objection, and submits that the testimony should be consider based on the facts and applicable law and rulings in this case. The Peterson case involved a different filter, different claims, and was		

		decided under different state law.		
Carr, Rob 04/17/2013	5:08-5:19	To the extent Mr. Carr's background and work history are previously designated, this is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr.	Admitted in the Peterson Case Plaintiff will only provide testimony as to Mr. Carr's background and work history one time.	OVERRULED
Carr, Rob 04/17/2013	9:01-9:05	To the extent Mr. Carr's background and work history are previously designated, this is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr.	Admitted in the Peterson Case Plaintiff has reduced the designation to 09:01-09:05 and 10:13-10:24	OVERRULED
Carr, Rob 04/17/2013	10:13-10:24	To the extent Mr. Carr's background and work history are previously designated, this is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr.	Admitted in the Peterson Case	OVERRULED
Carr, Rob 04/17/2013	11:20-11:22	To the extent Mr. Carr's background and work history are	Admitted in the Peterson Case Plaintiff will only	OVERRULED

		previously designated, this is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr.	provide testimony as to Mr. Carr's background and work history one time.	
Carr, Rob 04/17/2013	12:04-12:07	This testimony is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr and several other of Bard's employees and former employees.	Admitted in the Peterson Case	OVERRULED
Carr, Rob 04/17/2013	12:18-12:22	Rules 401, 402 and 403-As is indicated below much of the testimony designated below exceeded the scope of the notice of the deposition. Plainitff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard.	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

Carr, Rob 04/17/2013	13:17-13:24	Objection. By removing 13:15-16, without notice this testimony is out of context. Must keep 13:15-16 to denote the scope of the witness' testimony. Moreover, to the extent Mr. Carr's background and work history are previously designated, this is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr.	Admitted in the Peterson Case Plaintiff will only provide testimony as to Mr. Carr's background and work history one time. FRCP 32 (6) and FRE 106 only require the inclusion of matters that "in fairness should be considered with the part introduced." This designation involves a new line of question and separate issue from the testimony offered therefore optional completeness is not required. The Plaintiff should be permitted to present the testimony requested and that follows with interruption by this testimony offered by defenses. Defense can play this testimony in cross.	OVERRULED
Carr, Rob 04/17/2013	13:25-14:10	To the extent Mr. Carr's background and work history are previously designated, this is duplicative and	Admitted in the Peterson Case Plaintiff will only provide testimony as to Mr. Carr's	OVERRULED

		cumulative of testimony designated in the four other depositions of Mr. Carr.	background and work history one time.	
Carr, Rob 04/17/2013	14:11-14:14	To the extent Mr. Carr's background and work history are previously designated, this is duplicative and cumulative of testimony designated in the four other depositions of Mr. Carr.	Admitted in the Peterson Case Plaintiff will only provide testimony as to Mr. Carr's background and work history one time.	OVERRULED
Carr, Rob 04/17/2013	91:16-91:24		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	92:05-92:17		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	93:01-93:07		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	93:08-94:03		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	94:16-95:02		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	95:22-96:06		Admitted in the Peterson Case	

migration, tilt, and fracture. The Bard's conduct with regard to the		Bard's conduct	
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			design history its IVC filters from the Recovery filter to the Meridian is relevant to the negligence claims as is its knowledge of how complications such as caudal migration can lead to fracture.	
Carr, Rob 04/17/2013	97:23-98:08	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The	OVERRULED

			failure modes are relevant to the assessment of the defects in the design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history its IVC filters from the Recovery filter to the Meridian is relevant to the negligence claims as is its knowledge of how complications such as caudal migration can lead to fracture.	
Carr, Rob 04/17/2013	98:11-98:12	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Plaintiff has reduced this designation to 98:11-98:12. Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform	OVERRULED

C:14	
filters, including	
the Meridian	
trace their design	
history to the	
Recovery filter	
and the defects in	
the Meridian	
design only can	
be understood	
only in the	
context of the	
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Judge Campbell	
agreed with this	
position in Jones	
v. Bard. [MDL	
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Meridian is	
relevant to the	
negligence claims	
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knowledge of	
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complications	

			such as caudal migration can lead to fracture.	
Carr, Rob 04/17/2013	105:05-105:13	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition.	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the	OVERRULED

design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history its IVC filters from the Recovery filter to the Meridian is relevant to the negligence claims as is its knowledge of how complications such as caudal migration can lead to fracture. Bard chose Mr. Carr, its former Director of Research and Development and current VP for **Project** Management, to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an

			officer and manager at Bard. The testimony is withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	106:18- 107:07	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

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30(b)(6) deposition.	failure modes are	
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	Management, to	
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	30(b)(6) notice	
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			times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The testimony is withn the scope of the 30(b)(6) motion which included "the risks an complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	107:08- 108:12	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that	Admitted in the Peterson Case	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

		exceeded the scope of the notice of the 30(b)(6) deposition. Moreover, counsel is testifying simply reading the document and asking the witness if counsel read it correctly.		
Carr, Rob 04/17/2013	108:13-108:21	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition.	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the design of the filter whether a	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

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Bard chose Mr.
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times relevant to
the deposition
and subject
matter of the
testimony Mr.
Carr was an
officer and
manager at Bard.

			The testimony is withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	108:22- 108:25	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

asked questions that Order No. exceeded the scope 10819]. The of the notice of the failure modes are 30(b)(6) deposition. relevant to the Rules 601/602 & assessment of the 612. Lacks defects in the foundation, witness design of the does not have filter whether a personal knowledge particular failure of subject matter, mode has calls for speculation occurred; by the witness. however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history its IVC filters from the Recovery filter to the Meridian is relevant to the negligence claims as is its knowledge of how complications such as caudal migration can lead to fracture. Bard chose Mr. Carr, its former Director of Research and Development and current VP for Project

Management, to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. At all

			times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The testimony is withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	109:01-109:01	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel	Testimony admitted at Bard's request in Peterson	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

		asked questions that exceeded the scope of the notice of the 30(b)(6) deposition. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness.		
Carr, Rob 04/17/2013	109:05-109:09	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition. Rules 601/602 & 612. Lacks	Testimony admitted at Bard's request in Peterson	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

		foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness.		
Carr, Rob 04/17/2013	109:16-109:18	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the design of the filter whether a particular failure	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

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	testimony Mr.	
	Carr was an	
	officer and	
	manager at Bard.	
	The testimony is	
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			withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	109:21-110:01	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel	Admitted in the Peterson Case	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

		asked questions that exceeded the scope of the notice of the 30(b)(6) deposition. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness.		
Carr, Rob 04/17/2013	110:03-110:03	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony involves alleged issues with the G2 and G2X filters, not the filter at issue. Rules 401, 402, 403. Testimony also exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition. Rules 601/602 & 612. Lacks	Admitted in the Peterson Case Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness.	design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history its IVC filters from the Recovery filter to the Meridian is relevant to the negligence claims as is its knowledge of how complications such as caudal migration can lead to fracture. Bard chose Mr. Carr, its former Director of Research and Development and current VP for Project Management, to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. At all times relevant to the deposition and subject matter of the	

			officer and manager at Bard. The testimony is withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	116:04- 116:06		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	116:07- 116:13		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	157:04- 157:11	Rules 401, 402, 403. Testimony exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition.	Admitted in the Peterson case Bard chose Mr. Carr, its former Director of Research and Development and current VP for Project Management, to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			officer and manager at Bard. The testimony is withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	
Carr, Rob 04/17/2013	157:15-157:22	Rules 401, 402, 403. Testimony exceeds the scope of the notice of the deposition. Plaintiff should not be able to imply that Mr. Carr was speaking on behalf of the company when he was responding to questions in his personal capacity because counsel asked questions that exceeded the scope of the notice of the 30(b)(6) deposition.	Admitted in the Peterson Case Bard chose Mr. Carr, its former Director of Research and Development and current VP for Project Management, to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The testimony is withn the scope of the 30(b)(6) motion which included "the risks and complications associated with" the Bard filters.	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

Carr, Rob 04/17/2013	159:21-160:01	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to	RESERVED AS TO SCOPE, OTHERWISE OVERRULED
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			warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 04/17/2013	160:04-160:11	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 04/17/2013	160:15-160:17	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Plaintiff has reduced the designation to 160:15 -160:17 Bard chose Mr. Carr to respond to the 300(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr.	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 04/17/2013	161:08- 161:10	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative	Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

		value outweighed by prejudicial effect.	times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01- 163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly	
Carr, Rob 04/17/2013	161:13- 161:14	Rules 401, 402 and 403 - this line of	Admitted in the Peterson Case	RESERVED AS TO
		questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence.	Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates	SCOPE, OTHERWISE OVERRULED

Carr, Rob	161:16	Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	RESERVED
04/17/2013	101.10	403 - this line of questions exceeds the scope of the	Peterson Case	AS TO SCOPE,

		depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.		OTHERWISE OVERRULED
Carr, Rob 04/17/2013	162:11- 162:15	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 04/17/2013	162:18	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 04/17/2013	162:19- 162:23	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 04/17/2013	162:24	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

Carr, Rob	163:20-	Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The Hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
04/17/2013	163:21		admitted at Bard's request in Peterson	

Carr, Rob 04/17/2013	163:22- 164:08		Admitted in the Peterson Case	
Carr, Rob 04/17/2013	165:14-165:17	Rules 401, 402 and 403 - this line of questions exceeds the scope of the depositon notice (See 160:2-3). Rules 401, 402 and 403. Improper hypothetical and assumes facts that are not in evidence. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in the Peterson Case Bard chose Mr. Carr to respond to the 30(b)(6) notice not the Plaintiff, therefore he is testifying for the company. The testimony relates to the risks and benefits presented by Bard's IVC filters and is within the scope of the notice. At all times relevant to the deposition and subject matter of the testimony Mr. Carr was an officer and manager at Bard. The hypothetical is based upon an event that actually occurred and was reported to Bard. [163:01-163:17]. The Bard's conduct with regard to the communication of the known performance failures of its filters and the reported rate of such failures, or lack thereof, to the medical	RESERVED AS TO SCOPE, OTHERWISE OVERRULED

			community is clearly relevant to the failure to warn and negligence claims. The testimony is relevant and is not unfairly prejudicial.	
DEPON- ENT	DEF COUNTER	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Carr, Rob 04/17/2013	13:25-14:10 Subject to objection and for completeness	FRCP 32 (6) and FRE 106 only require the inclusion of matters that "in fairness should be considered with the part introduced." This designation involves a new line of question and separate issue from the testimony offered therefore optional completeness is not required. The Plaintiff should be permitted to present the testimony requested and that follows with interruption by this testimony offered by defenses. Defense can play this testimony in cross.		MOOT
Carr, Rob 04/17/2013	92:18-92:25			

Carr, Rob 04/17/2013	94:04-94:15		
Carr, Rob 04/17/2013	95:03-95:21		
Carr, Rob 04/17/2013	96:07-96:18		
Carr, Rob 04/17/2013	99:03-99:05		
Carr, Rob 04/17/2013	99:08-99:17	FRCP 32(6) and FRE 106– Optional completeness – Page 99:18-99:24 completes the line of question requested by the defense and in fairness should be considered with the part introduced. This is particularly necessary since defense resumes the testimony at 99:25	SUSTAIN, INCLUDE 99:18-99:24
Carr, Rob 04/17/2013	99:25-100:01		
Carr, Rob 04/17/2013	100:04- 100:05		
Carr, Rob 04/17/2013	105:14- 105:22		
Carr, Rob 04/17/2013	109:01	FRE 403: testimony is already contained in Plaintiff's affirmatives so results in undue delay, waste of time and needless presentation of cumulative evidence	MOOT

Carr, Rob 04/17/2013	109:05- 109:09 Subject to objection	FRE 403: testimony is already contained in Plaintiff's affirmatives so results in undue delay, waste of time and needless presentation of cumulative evidence	MOOT
Carr, Rob 04/17/2013	157:23- 158:01		
Carr, Rob 04/17/2013	158:03- 158:06		
Carr, Rob 04/17/2013	160:25- 161:04 Subject to objection		
Carr, Rob 04/17/2013	161:06- 161:07 Subject to objection		
Carr, Rob 04/17/2013	161:17- 161:22 Subject to objection		
Carr, Rob 04/17/2013	162:01- 162:04 Subject to objection		
Carr, Rob 04/17/2013	162:06- 162:08 Subject to objection		
Carr, Rob 04/17/2013	163:20- 163:21	FRE 403: testimony is already contained in Plaintiff's	MOOT

	subject to objection	affirmatives so results in undue delay, waste of time and needless presentation of cumulative evidence	
Carr, Rob 04/17/2013	164:15- 164:18 Subject to objection		
Carr, Rob 04/17/2013	164:20- 164:21 Subject to objection		
Carr, Rob 04/17/2013	165:01- 165:13 Subject to objection		
Carr, Rob 04/17/2013	166:02- 166:07 Subject to objection		
Carr, Rob 04/17/2013	166:19:166:2 1 (ending with "experienced") Subject to objection		
Carr, Rob 04/17/2013	166:24- 167:02 (starting with "absolutely")		

Subject to		
objection		

November 5, 2013, Deposition:

DEPON-	PL AFFIRM	DEF	PL RESPONSE TO	COURT
ENT		OBJECTIONS	OBJECTIONS	RULING
		Bard objects to Plaintiff's references to "Admitted in the Peterson case" as a basis for allowing a designation to played, or overruling an objection, and submits that the testimony should be consider based on the facts and applicable law and rulings in this case. The Peterson case involved a different filter, different claims, and was decided under different state law.		
Carr, Rob 11/05/2013	41:11-41:15		Admitted in Peterson	
Carr, Rob 11/05/2013	44:05-44:10		Admitted in Peterson	
Carr, Rob 11/05/2013	87:24-88:03		Admitted in Peterson	

Carr, Rob	88:05	Counters at 88:7-	Admitted in	OVERRULED
11/05/2013		12 are necessary	Peterson	
		for completeness.	FRCP 32(6) AND	
		1	FRE 106 only	
			requires	
			completeness that	
			"in fairness ought to	
			be considered at the	
			same time".	
			Defendants have not	
			demonstrated why	
			this testimony, in	
			the name of fairness,	
			must be considered	
			at the same time as	
			Plaintiff's	
			designation.	
			Defendants can	
			include it in their	
			cross.	
Carr, Rob	134:10-	Rule 803 - counsel	Admitted in	OVERRULED
11/05/2013	134:20	is reading from a	Peterson	
		document that is	The fact the	
		not in evidence.	document "is not in	
		See lines 6 and 7	evidence" is not a	
		("turn to the next	proper objection.	
		page")	The document being	
			discussed is a copy	
			of is a copy of 21	
			CFR 882 which	
			address a medical	
			device	
			manufacturer's	
			obligations	
			regardingpost	
			market survellance	
			and is a proper	
			subject for	
			examination of this	
			witness and relevant	
			testimony with	
			regard Bard's	
			negligence. (128:09-	

			128:15). The language in a regulation is not an out of court "statement" as that term is defined by FRE 801.	
Carr, Rob 11/05/2013	134:23		Admitted in Peterson	
Carr, Rob 11/05/2013	135:01- 135:02		Admitted in Peterson	
Carr, Rob 11/05/2013	135:07- 135:08		Admitted in Peterson	
Carr, Rob 11/05/2013	135:10- 135:12		Testimony admitted at Bard's request in Peterson	
Carr, Rob 11/05/2013	135:14- 135:14		Testimony admitted at Bard's request in Peterson	
Carr, Rob 11/05/2013	135:15- 135:19	Incomplete answer. Answer starts on 135:10- 14. Answer is out of text without the added language	Admitted in Peterson FRCP 32(6) and FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demonstrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	OVERRULED
Carr, Rob 11/05/2013	135:21- 135:22		Admitted in Peterson	

Carr, Rob	135:24-		Admitted in	
11/05/2013	136:03		Peterson	
Carr, Rob 11/05/2013	191:16- 191:22	Rules 401, 402 and 403. This relates to the Recovery filter. It is confusing and serves no purpose other than to confuse and prejudice the jury. If the testimony is allowed the counters on 192 are necessary for completeness.	Admitted in Peterson	OVERRULED
Carr, Rob 11/05/2013	193:24- 194:02	Rules 401, 402 and 403. This relates to the Recovery filter. It is confusing and serves no purpose other than to confuse and prejudice the jury. If the testimony is allowed the counters on 192 are necessary for completeness.	Admitted in Peterson	OVERRULED
Carr, Rob 11/05/2013	194:05 beginning with "We"	Rules 401, 402 and 403. This relates to the Recovery filter. It is confusing and serves no purpose other than to confuse and prejudice the jury. If the testimony is allowed the counters on 192	Admitted in Peterson	OVERRULED

		are necessary for completeness.		
Carr, Rob 11/05/2013	265:09-265:13	Rules 401, 402 and 403. This relates to the Recovery filter. It is confusing and serves no purpose other than to confuse and prejudice the jury. If the testimony is allowed the counters on 265-266 are necessary for completeness.	Admitted in Peterson All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history and complaint history of its IVC filters from the Recovery filter to the Meridian is relevant to the negligence	OVERRULED

			claims as is its knowledge of how complications such as caudal migration can lead to fracture. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 11/05/2013	265:15-265:16	Rules 401, 402 and 403. This relates to the Recovery filter. It is confusing and serves no purpose other than to confuse and prejudice the jury. If the testimony is allowed the counters on 265-266 are necessary for completeness.	Admitted in Peterson All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Judge Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard	OVERRULED

			to the design history and complaint history of its IVC filters from the Recovery filter to the Meridian is relevant to the negligence claims as is its knowledge of how complications such as caudal migration can lead to fracture. The testimony ios relevant and is not unfairly prejudicial.	
Carr, Rob 11/05/2013	268:05-268:06	Rule 602-Witness is not familiar with the document and has not seen it before. See, 268:8-15. Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in Peterson The Federal Rules of Evidence do not prohibit a party from questioning witnesses about admissible documents the witness does not recall having seen before. "Personal knowledge of a fact 'is not an absolute' to Rule 602's foundational requirement", United States v. Cuti, 702 F.3d. 453, 459 (2nd Cir. 2013) "What if you had known " questions are acceptable. Id., 459 (2nd Cir. 2013). At all times relevant to the deposition and subject matter of the testimony Mr.	SUSTAIN

Carr was an officer
and manager at Bard
whiwho should be
knowledgeable
regarding the
document and its
subject matter All
G2 filter platform
filters, including the
Meridian trace their
design history to the
Recovery filter and
the defects in the
Meridian design
only can be
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Campbell agreed
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The failure modes
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of the filter whether
a particular failure
mode has occurred;
however, Ms.
Johnson has
experienced
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migration, tilt, and
fracture. The Bard's
conduct with regard
to the design history
and complaint
history of its IVC
filters from the
Recovery filter to the
Meridian is relevant
to the negligence
 88

			claims as is its knowledge of how complications such as caudal migration can lead to fracture. The testimony is relevant and is not unfairly prejudicial.	
Carr, Rob 11/05/2013	268:08- 268:09	Rule 602-Witness is not familiar with the document and has not seen it before. See, 268:8-15	Testimony Admitted at Bard's request in Peterson	SUSTAIN
Carr, Rob 11/05/2013	268:10- 268:15	Rule 602-Witness is not familiar with the document and has not seen it before. See, 268:8-15		SUSTAIN

Rule 602-Witness is not familiar	Admitted in	SUSAIN
	Peterson	
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	with the document and has not seen it before. See, 268:8-15. Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	document and has not seen it before. See, 268:8-15. Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by Evidence do not prohibit a party from questioning witnesses about admissible documents the witness does not recall having seen before. "Personal knowledge of a fact 'is not an absolute' to Rule 602's

the context of the
entire filter-line
development. Judge
Campbell agreed
with this position in
Jones v. Bard. [MDL
Order No. 10819].
The failure modes
are relevant to the
assessment of the
defects in the design
of the filter whether
a particular failure
mode has occurred;
however, Ms.
Johnson has
experienced
perforation,
migration, tilt, and
fracture. The Bard's
conduct with regard
to the design history
and complaint
history of its IVC
filters from the
Recovery filter to the
Meridian is relevant
to the negligence
claims as is its
knowledge of how
complications such
as caudal migration
can lead to fracture.
The testimony is
relevant and is not
unfairly prejudicial.

Carr, Rob	290:21-	Rule 602-Witness	Admitted in	SUSTAIN
11/05/2013	290:22	is not familiar	Peterson	
		with the	The Federal Rules of	
		document and has	Evidence do not	
		not seen it before.	prohibit a party	
		See, 268:8-15.	from questioning	
		Rules 401, 402,	witnesses about	
		403 – Testimony	admissible	
		does not involve	documents the	
		filter at issue	witness does not	
		and/or failure	recall having seen	
		mode at issue;	before. "Personal	
		Irrelevant and any	knowledge of a fact	
		probative value	'is not an absolute'	
		outweighed by	to Rule 602's	
		prejudicial effect.	foundational	
		1 ,	requirement ",	
			United States v.	
			Cuti, 702 F.3d. 453,	
			459 (2nd Cir. 2013).	
			. "What if you had	
			known " questions	
			are acceptable. Id.,	
			459 (2nd Cir. 2013).	
			At all times relevant	
			to the deposition	
			and subject matter	
			of the testimony Mr.	
			Carr was an officer	
			and manager at Bard	
			who should be	
			knowledgeable	
			regarding the	
			document and its	
			subject matter All	
			G2 filter platform	
			filters, including the	
			Meridian trace their	
			design history to the	
			Recovery filter and	
			the defects in the	
			Meridian design	
			only can be	
			understood only in	

the context of the	
entire filter-line	
development. Judge	
Campbell agreed	
with this position in	
Jones v. Bard. [MDL	
Order No. 10819].	
The failure modes	
are relevant to the	
assessment of the	
defects in the design	
of the filter whether	
a particular failure	
mode has occurred;	
however, Ms.	
Johnson has	
experienced	
perforation, migration, tilt, and	
fracture. The Bard's	
conduct with regard	
to the design history	
and complaint	
history of its IVC	
filters from the	
Recovery filter to the	
Meridian is relevant	
to the negligence	
claims as is its	
knowledge of how	
complications such	
as caudal migration	
can lead to fracture.	
The testimony is	
relevant and is not	
unfairly prejudicial.	

Carr, Rob	292:04-	Rule 602-Witness	The Federal Rules of	SUSTAIN
11/05/2013	292:09	is not familiar	Evidence do not	
,		with the	prohibit a party	
		document and has	from questioning	
		not seen it before.	witnesses about	
		See, 268:8-15.	admissible	
		Rules 401, 402,	documents the	
		403 – Testimony	witness does not	
		does not involve	recall having seen	
		filter at issue	before. "Personal	
		and/or failure	knowledge of a fact	
		mode at issue;	'is not an absolute'	
		Irrelevant and any	to Rule 602's	
		probative value	foundational	
		outweighed by	requirement ",	
		prejudicial effect.	United States v.	
		1)	Cuti, 702 F.3d. 453,	
			459 (2nd Cir. 2013).	
			. "What if you had	
			known " questions	
			are acceptable. Id.,	
			459 (2nd Cir. 2013).	
			At all times relevant	
			to the deposition	
			and subject matter	
			of the testimony Mr.	
			Carr was an officer	
			and manager at Bard	
			whiwho should be	
			knowledgeable	
			regarding the	
			document and its	
			subject matter All	
			G2 filter platform	
			filters, including the	
			Meridian trace their	
			design history to the	
			Recovery filter and	
			the defects in the	
			Meridian design	
			only can be	
			understood only in	
			the context of the	
			entire filter-line	

Campbell agreed with this position in Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history and complaint history of its IVC						development. Judge	
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defects in the design of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history and complaint history of its IVC							
of the filter whether a particular failure mode has occurred; however, Ms. Johnson has experienced perforation, migration, tilt, and fracture. The Bard's conduct with regard to the design history and complaint history of its IVC							
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fracture. The Bard's conduct with regard to the design history and complaint history of its IVC							
conduct with regard to the design history and complaint history of its IVC						_	
to the design history and complaint history of its IVC							
and complaint history of its IVC						_	
history of its IVC							
						filters from the	
Recovery filter to the							
Meridian is relevant						•	
to the negligence							
claims as is its							
knowledge of how							
complications such						-	
as caudal migration						_	
can lead to fracture.							
The testimony is							
relevant and is not						•	
unfairly prejudicial.							
Similarly projection.							

Carr, Rob	292:11	Rule 602-Witness	Admitted in	SUSTAIN
11/05/2013		is not familiar	Peterson	
		with the	The Federal Rules of	
		document and has	Evidence do not	
		not seen it before.	prohibit a party	
		See, 268:8-15.	from questioning	
		Rules 401, 402,	witnesses about	
		403 – Testimony	admissible	
		does not involve	documents the	
		filter at issue	witness does not	
		and/or failure	recall having seen	
		mode at issue;	before. "Personal	
		Irrelevant and any	knowledge of a fact	
		probative value	'is not an absolute'	
		outweighed by	to Rule 602's	
		prejudicial effect.	foundational	
		,	requirement ",	
			United States v.	
			Cuti, 702 F.3d. 453,	
			459 (2nd Cir. 2013).	
			. "What if you had	
			known " questions	
			are acceptable. Id.,	
			459 (2nd Cir. 2013).	
			At all times relevant	
			to the deposition	
			and subject matter	
			of the testimony Mr.	
			Carr was an officer	
			and manager at Bard	
			who should be	
			knowledgeable	
			regarding the	
			document and its	
			subject matter All	
			G2 filter platform	
			filters, including the	
			Meridian trace their	
			design history to the	
			Recovery filter and	
			the defects in the	
			Meridian design	
			only can be	
			understood only in	

			the context of the	
			entire filter-line	
			development. Judge	
			Campbell agreed	
			with this position in	
			Jones v. Bard. [MDL	
			Order No. 10819].	
			The failure modes	
			are relevant to the	
			assessment of the	
			defects in the design	
			of the filter whether	
			a particular failure	
			mode has occurred;	
			however, Ms.	
			Johnson has	
			experienced	
			perforation,	
			migration, tilt, and	
			fracture. The Bard's	
			conduct with regard	
			to the design history	
			and complaint	
			history of its IVC	
			filters from the	
			Recovery filter to the	
			Meridian is relevant	
			to the negligence	
			claims as is its	
			knowledge of how	
			complications such	
			as caudal migration	
			can lead to fracture.	
			The testimony is	
			relevant and is not	
			unfairly prejudicial.	
Carr, Rob	293:04-	This violates the	Admitted in	SUSTAIN
11/05/2013	293:04-		Peterson	SUSTAIN
11/03/2013		Court's Ruling on Recovery		
	beginning with "And	,	Fracture, migration,	
		Migrataion	perforation and death are risks	
	did you"	deaths. Rule 401,		
		402, 403 . This	involved in the use	
		case does not	of the Recovery	

		involve the Recovery Filter, nor does it involve any allegation of migration death. ECF 204	filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous. The reference to the word "death" will be redacted.	
DEPONENT	DEF COUNTER	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Carr, Rob 11/05/2013	88:07-88:08 For Completeness	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED

Carr, Rob 11/05/2013	88:10-88:12 For Completeness	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a	OVERRULED
		name of fairness, must be considered at the same time as Plaintiff's designation.	witness about a subject or document with which that witness has no personal knowledge.	
Carr, Rob 11/05/2013	135:10- 135:12 For Completeness	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED
Carr, Rob 11/05/2013	135:14 For Completeness	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness,	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a	OVERRULED

		. 1	1	1
		must be	subject or document	
		considered at the	with which that	
		same time as	witness has no	
		Plaintiff's	personal knowledge.	
		designation.		
Carr, Rob	192:12-	FRE 106 only	This testimony is	OVERRULED
11/05/2013	192:16	requires	necessary to place	
		completeness that	Plaintiff's selective	
	For	"in fairness ought	designation of lines	
	Completeness	to be considered	of questioning in	
		at the same time".	proper context	
		Defendants have	and/or demonstrate	
		not demostrated	the Plaintiff is	
		why this	attempting to elicit	
		testimony, in the	testimony from a	
		name of fairness,	witness about a	
		must be	subject or document	
		considered at the	with which that	
		same time as	witness has no	
		Plaintiff's	personal knowledge.	
		designation.		
Carr, Rob	192:18-	FRE 106 only	This testimony is	OVERRULED
Carr, Rob 11/05/2013	192:18- 192:22	FRE 106 only requires	This testimony is necessary to place	OVERRULED
			•	OVERRULED
		requires	necessary to place	OVERRULED
	192:22	requires completeness that	necessary to place Plaintiff's selective	OVERRULED
	192:22 For	requires completeness that "in fairness ought	necessary to place Plaintiff's selective designation of lines	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered	necessary to place Plaintiff's selective designation of lines of questioning in	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time".	necessary to place Plaintiff's selective designation of lines of questioning in proper context	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness,	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no	OVERRULED
	192:22 For	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED
11/05/2013	For Completeness	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation. FRE 106 only	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge. This testimony is	
11/05/2013 Carr, Rob	For Completeness	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation. FRE 106 only requires	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	
11/05/2013 Carr, Rob	For Completeness	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation. FRE 106 only requires completeness that	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge. This testimony is necessary to place Plaintiff's selective	
11/05/2013 Carr, Rob	192:22 For Completeness 193:11- 193:15	requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation. FRE 106 only requires	necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge. This testimony is necessary to place	

		at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	
Carr, Rob 11/05/2013	193:17- 193:20 For Completeness	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED
Carr, Rob 11/05/2013	265:18- 266:03 For Completeness	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED

		Plaintiff's		
		designation.		
Carr, Rob	268:08-	FRE 106 only	This testimony is	SUSTAINED.
11/05/2013	268:15	requires	necessary to place	Plaintiff's
	For	completeness that	Plaintiff's selective	affirmative
	Completeness	"in fairness ought	designation of lines	testimony on
		to be considered	of questioning in	this point was
		at the same time".	proper context	struck.
		Defendants have	and/or demonstrate	
		not demostrated	the Plaintiff is	
		why this	attempting to elicit	
		testimony, in the	testimony from a	
		name of fairness,	witness about a	
		must be	subject or document	
		considered at the	with which that	
		same time as	witness has no	
		Plaintiff's	personal knowledge.	
		designation.		

October 29, 2014, Deposition:

DEPON-	PL AFFIRM	DEF	PL RESPONSE	COURT
ENT		OBJECTIONS	TO OBJECTIONS	RULING
Carr, Rob		Bard objects to		
10/29/2014		Plaintiff's references		
		to "Admitted in the		
		Peterson case" as a		
		basis for allowing a		
		designation to		
		played, or		
		overruling an		
		objection, and		
		submits that the		
		testimony should		
		be consider based		
		on the facts and		
		applicable law and		
		rulings in this case.		
		The Peterson case		
		involved a different		
		filter, different		
		claims, and was		

		decided under different state law.		
Carr, Rob 10/29/2014	74:24-75:06	Rule 602 - witness is not familiar with the document. See, lines 5-9 and 12	Admitted in Peterson The Federal Rules of Evidence do not prohibit a party from questioning witnesses about admissible documents the witness does not recall having seen before. "Personal knowledge of a fact 'is not an absolute' to Rule 602's foundational requirement", United States v. Cuti, 702 F.3d. 453, 459 (2nd Cir. 2013) "What if you had known "questions are acceptable. Id.at 459. Mr. Carr is Bard's former Director of Research and Development and current VP for Project Management and should be knowledgeable regarding the document and its subject matter.	OVERRULED
Carr, Rob 10/29/2014	75:07-75:09		Testimony admitted at Bard's request in Peterson	

Carr, Rob 10/29/2014	75:12		Testimony admitted at Bard's request in Peterson	
Carr, Rob 10/29/2014	78:15-78:23	Rule 602 - witness is not familiar with the document. See, lines 75: 5-9 and 12.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous. The Federal Rules of Evidence do not prohibit a party from questioning witnesses about admissible documents the witness does not recall having seen before. "Personal knowledge of a fact 'is not an absolute' to Rule 602's	OVERRULED

Carr, Rob 10/29/2014	79:14-79:16	Rule 602 - witness is not familiar with the document. See, lines 75: 5-9 and 12.	foundational requirement ", United States v. Cuti, 702 F.3d. 453, 459 . "What if you had known " questions are acceptable. Id., 459. Mr. Carr is Bard's former Director of Research and Development and current VP for Project Management and should be knowledgeable regarding the document and its subject matter. Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated	OVERRULED
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1	with the Meridian
	rendered the
	Meridian
	unreasonably
	dangerous.
	The Federal Rules
	of Evidence do not
	prohibit a party
	from questioning
	witnesses about
	admissible
	documents the
	witness does not
	recall having seen
	before. "Personal
	knowledge of a fact
	'is not an absolute'
	to Rule 602's
	foundational
	requirement ",
	United States v.
	Cuti, 702 F.3d.
	453, 459 (2nd Cir.
	2013) "What if
	you had known "
	questions are
	acceptable. Id.,
	459. Mr. Carr is
	Bard's former
	Director of
	Research and
	Development and
	current VP for
	Project
	Management and
	should be
	knowledgeable
	regarding the
	document and its
	subject matter.

Carr, Rob 10/29/2014	79:20-80:03	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. If testimony is allowed, counters are necessary for completeness.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous. FRCP 32(6) AND FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demonstrated why this testimony, in the name of fairness, must be considered at the	OVERRULED

			Defendants can include it in their cross.	
Carr, Rob 10/29/2014	82:13-82:18	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	OVERRULED

Carr, Rob 10/29/2014	82:22-82:23	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	OVERRULED
Carr, Rob 10/29/2014	83:02-83:03	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and	OVERRULED

		by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	83:05-83:06	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	OVERRULED

Carr, Rob	83:08-83:11	Rules 401, 402,	Admitted in	OVERRULED
10/29/2014		403. Testimony	Peterson	
		does not involve	The Federal Rules	
		filter at issue and/or	of Evidence do not	
		failure modes at	prohibit a party	
		issue; Irrelevant and	from questioning	
		any probative value	witnesses about	
		outweighed by	admissible	
		prejudicial effect.	documents the	
		Rules 601/602 &	witness does not	
		612. Lacks	recall having seen	
		foundation, witness	before. "Personal	
		does not have	knowledge of a fact	
		personal knowledge	'is not an absolute'	
		of subject matter,	to Rule 602's	
		calls for speculation	foundational	
		by the witness. see	requirement ",	
		85:20-85:21. The	United States v.	
		witness states that	Cuti, 702 F.3d.	
		he does not know	453, 459 (2nd Cir.	
		the genesis of this	2013) "What if	
		document, so he	you had known "	
		cannot speak	questions are	
		directly to it.	acceptable. Id., 459	
			(2nd Cir. 2013). At all times relevant to	
			the deposition and	
			subject matter of	
			the testimony Mr.	
			Carr was an officer	
			and manager at	
			Bard who should	
			be knowledgeable	
			regarding the	
			document and its	
			subject matter.	
			Fracture,	
			migration,	
			perforation and	
			death are risks	
			involved in the use	
			of the Recovery	
			and Meridian	
			filters and are	
			relevant to whether	
			the there is a	
			design defect.	

			Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	83:14-83:18	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so [he] can't speak directly to it. (83:14-15) Obj. to designation of an answer with no question designated.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian	OVERRULED

			unreasonably dangerous.	
Carr, Rob 10/29/2014	83:21	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	OVERRULED
Carr, Rob 10/29/2014	83:23-83:24	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 &	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are	OVERRULED

		612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	84:02	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated	OVERRULED

			with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	84:04-84:08	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	OVERRULED
Carr, Rob 10/29/2014	84:11	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use	OVERRULED
		outweighed by prejudicial effect. Rules 601/602 &	of the Recovery and Meridian filters and are	

		612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	84:13-84:14	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated	OVERRULED

			with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	84:17	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson racture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	OVERRYLLED
Carr, Rob 10/29/2014	84:19-84:20	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether	OVERRULED

		foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous.	
Carr, Rob 10/29/2014	84:22-85:01	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. Rules 601/602 & 612. Lacks foundation, witness does not have personal knowledge of subject matter, calls for speculation by the witness. see 85:20-85:21. The witness states that he does not know the genesis of this document, so he cannot speak directly to it.	Admitted in Peterson The Federal Rules of Evidence do not prohibit a party from questioning witnesses about admissible documents the witness does not recall having seen before. "Personal knowledge of a fact 'is not an absolute' to Rule 602's foundational requirement", United States v. Cuti, 702 F.3d. 453, 459 (2nd Cir. 2013) "What if you had known "questions are acceptable. Id., 459. At all times relevant to the deposition and	OVERRULED

			subject matter of	
			the testimony Mr.	
			Carr was an officer	
			and manager at	
			Bard who should	
			be knowledgeable	
			regarding the	
			document and its	
			subject matter.	
			Fracture,	
			migration,	
			perforation and	
			death are risks	
			involved in the use	
			of the Recovery	
			and Meridian	
			filters and are	
			relevant to whether	
			the there is a	
			design defect.	
			Fracture,	
			migration,	
			perforation and	
			death are also	
			dangers of the	
			Meridian filter that	
			were known to	
			Bard, and the	
			failure to warn of	
			the substantial risk	
			of fracture,	
			migration and	
			death associated	
			with the Meridian	
			rendered the	
			Meridian	
			unreasonably	
	0.5.0.:		dangerous.	
Carr, Rob	85:04		Admitted in	
10/29/2014	100 11	D 1 107 107	Peterson	OT INDUSTRIA
Carr, Rob	132:11-	Rules 401, 402,	Admitted in	OVERRULED
10/29/2014	132:17	403. Testimony	Peterson	
		does not involve	Fracture,	
		filter at issue and/or	migration,	
		failure modes at	perforation and	
		issue; Irrelevant and	death are risks	
		any probative value	involved in the use	

		outweighed by prejudicial effect.	of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous. The testimony is not unfairly prejudicial.	
Carr, Rob 10/29/2014	134:07- 134:18	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the	OVERRULED

, , , , , , , , , , , , , , , , , , ,	61:21-62:02	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian unreasonably dangerous. The testimony is not unfairly prejudicial. Admitted in Peterson Fracture, migration, perforation and death are risks involved in the use of the Recovery and Meridian filters and are relevant to whether the there is a design defect. Fracture, migration, perforation and death are also dangers of the Meridian filter that were known to Bard, and the failure to warn of the substantial risk of fracture, migration and death associated with the Meridian rendered the Meridian	OVERRULED
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DEPON-	DEF	PL OBJECTIONS	DEF RESPONSE	COURT
ENT	COUNTER	EDE 104	TO OBJECTIONS	RULING
Carr, Rob	32:10-32:19	FRE 106 only	This testimony is	SUSTAIN
10/29/2014		requires	necessary to place	
	For	completeness that	Plaintiff's selective	
	Completenes	"in fairness ought to	designation of lines	
	S	be considered at the	of questioning in	
		same time".	proper context	
		Defendants have	and/or demonstrate	
		not demostrated	the Plaintiff is	
		why this testimony,	attempting to elicit	
		in the name of	testimony from a	
		fairness, must be	witness about a	
		considered at the	subject or	
		same time as	document with	
		Plaintiff's	which that witness	
		designation.	has no personal	
			knowledge.	
Carr, Rob	60:08-60:14	FRE 106 only	This testimony is	SUSTAIN
10/29/2015		requires	necessary to place	
		completeness that	Plaintiff's selective	
		"in fairness ought to	designation of lines	
		be considered at the	of questioning in	
		same time".	proper context	
		Defendants have	and/or demonstrate	
		not demostrated	the Plaintiff is	
		why this testimony,	attempting to elicit	
		in the name of	testimony from a	
		fairness, must be	witness about a	
		considered at the	subject or	
		same time as	document with	
		Plaintiff's	which that witness	
		designation.	has no personal	
		acoignation.	knowledge.	
Carr, Rob	75:07-75:09	FRE 106 only	This testimony is	OVERRULED
10/29/2014	73.07 73.07	requires	necessary to place	o verde eee
10/27/2011	For	completeness that	Plaintiff's selective	
	Completenes	"in fairness ought to	designation of lines	
	s	be considered at the	of questioning in	
		same time".	proper context	
		Defendants have	and/or demonstrate	
		not demostrated	the Plaintiff is	
		why this testimony,	attempting to elicit	
		in the name of	testimony from a	
		fairness, must be	witness about a	
		considered at the		
			subject or	
		same time as	document with	

		Plaintiff's designation.	which that witness has no personal knowledge.	
Carr, Rob 10/29/2014	75:12 For Completenes s	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge	OVERRULED
Carr, Rob 10/29/2014	80:04-80:06 For Completenes s	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	knowledge. This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED
Carr, Rob 10/29/2014	80:10-80:13 For Completenes s	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or	OVERRULED

		same time as Plaintiff's designation.	document with which that witness has no personal	
Carr, Rob 10/29/2014	134:19- 135:03 For Completenes s	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	knowledge. This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED
Carr, Rob 10/29/2014	135:08- 135:12 For Completenes s	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	OVERRULED
Carr, Rob 10/29/2014	164:13- 164:14 For Completenes s Subject to Objection	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a	SUSTAIN

		considered at the same time as Plaintiff's designation.	subject or document with which that witness has no personal knowledge.	
Carr, Rob 10/29/2014	166:20- 166:24 For Completenes s	FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demostrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	This testimony is necessary to place Plaintiff's selective designation of lines of questioning in proper context and/or demonstrate the Plaintiff is attempting to elicit testimony from a witness about a subject or document with which that witness has no personal knowledge.	SUSTAIN

Accordingly, IT IS ORDERED that the parties' request for rulings on objections to certain designations is GRANTED, and the objections are sustained in part and overruled in part as provided above.

Entered this 4th day of June, 2021.

/s/
WILLIAM M. CONLEY

District Judge

BY THE COURT: